

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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MAR 31 1997

Federal Communications Commission
Office of Secretary

MM Docket No. 95-176

In the Matter of)

Closed Captioning and Video)
Description of Video Programming)Implementation of Section 305 of)
the Telecommunications Act of 1996)

Video Programming Accessibility)

TO: The Commission

REPLY COMMENTS OF THE
NATIONAL CAPTIONING INSTITUTE

The National Captioning Institute, Inc. ("NCI") has reviewed the myriad comments filed in this Docket and believes they present the Commission with an excellent record upon which to proceed with the adoption of rules implementing new Section 713 of the Communications Act. NCI believes, however, that several key points bear reemphasis, and certain conflicts among the comments need to be addressed, as described below in these Reply Comments.

First, the comments of a number of parties contain inaccurate information regarding the cost of captioning and fail to take into account the substantial amount of captioning already undertaken with respect to various types of video programming. The combined effect of these errors is to overstate substantially the actual costs which would be incurred to implement the clear Congressional mandates that new programs be "fully accessible" through closed captions and that owners and providers of library programs "maximize the

accessibility" of their programs through closed captions. NCI refers the Commission to the "NCI Rate Card" attached as Exhibit 1 to our initial Comments in this proceeding. As the Commission will see, NCI's captioning rates, which are typical of those of other major captioning service providers, are well below the captioning costs cited by certain commentors.

In addition, other commentors substantially overstate the amount of programming which would be covered by new Commission captioning rules, in that they fail to take into account all of the captioning currently being undertaken with respect to new programming, as well as the tens of thousands of hours of library programming which have already been captioned. As NCI urged in its initial comments, which a number of other commentors have also supported, it is essential that: (a) the Commission's new rules set as a floor the current level of captioning being undertaken as of the effective date of the new Section 713 and (b) the Commission require that all previously captioned programs be aired with their captions whenever such programs are again aired through any distribution mechanism. If the Commission adopts those two basic principles, it will reduce the amount of additional captioning which will have to be undertaken pursuant to the new rules and alleviate the concerns expressed by some commentors regarding the potential scope and cost of the new rules.

Second, although the Commission has been flooded with requests for exemptions from its new rules, it is imperative that the Commission proceed very conservatively in granting any exemptions. As NCI urged in its initial comments, and as a number of other commentors have also stated, the Commission should deal with these exemption requests

through its implementation schedules, rather than through its exemption authority. Longer implementation schedules may well be appropriate with respect to certain types of programming, such as those which are not intended for wide audiences. However, blanket exemptions for many types of video programming would plainly be inconsistent with the Congressional mandates for full and maximum availability of video programming through closed captioning. Moreover, NCI strongly urges the Commission to make clear in the new rules that any exemptions granted in the initial rules are temporary in nature, and that the Commission will undertake to revisit exemptions on a periodic basis (e.g., every two years).

Third, a number of commentors have addressed the manner in which the new rules should apply to particular distributors of video programming. As NCI stated in its initial comments, we believe that, with respect to various types of programming, it may be more appropriate to impose the captioning obligation directly on the owner, producer, syndicator, or cable programming network which controls the programming, rather than on individual distributors such as local television stations or cable systems. Moreover, to the extent the Commission believes it is appropriate to impose the obligation directly on individual stations or cable systems, NCI (and others) urge the Commission to apply the implementation schedules on a per-channel basis, rather than on a station or system-wide basis. For example, in the case of cable systems, several commentors have noted that cable operators expect deaf and hard of hearing persons to pay their full cable rates even if only a fraction of the programming on the overall system is "available" to them through closed captions. If the new captioning requirements are imposed on a system-wide -- rather than on a per-channel -- basis, that problem would be exacerbated.

Finally, with respect to a particular category of programming which has been the subject of several comments and which is of significant importance to deaf and hard of hearing persons -- i.e., sports programming -- NCI would like to clarify what appear to be certain misunderstandings regarding the cost and logistics of captioning such programming, particularly regional and local sports. Specifically, a number of commentors appear to have overstated the costs for captioning such programming; and again, we would refer the Commission to the "NCI Rate Card" attached as Exhibit 1 to our initial comments in this proceeding. Other commentors expressed concern about the availability of sufficient captioners and equipment to caption a large number of regional or other sports programs being broadcast simultaneously. For example, it has been asserted that the captioning of such events would have to take place at the individual event sites where there may not be captioners, and it has been noted that the signals for such programs are often uplinked directly from those event sites where there may not be the requisite equipment. These problems have been cited as reasons for granting exemptions from the captioning requirements for regional and other sports programming.

In fact, however, these are not obstacles to the captioning of such programs. First, it is not necessary for the captioner editor to be physically located at the event site. NCI (and other captioning service providers) regularly caption regional sports events with personnel located away from the event site itself. It is simply necessary for the captioner to be able to view the event, or hear the event over the telephone, and be connected via modem to the uplink site. Second, the only equipment needed at the uplink site is an encoder (located, for example, in the remote broadcast van), which will permit the captioning information to be

inserted into the video signal as it is uplinked to the satellite. The cost of equipping remote vehicles with encoders is de minimus.

* * *

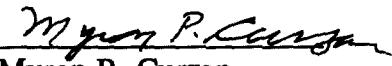
This proceeding represents a landmark opportunity for the Commission to make available the full benefits of the closed captioning technology to the tens of millions of deaf and hard of hearing persons throughout our country. Congress expects no less from the Commission. We again state, in closing, the five basic principles which we believe the Commission should adopt as part of its new rules in order faithfully to carry out the Congressional mandate:

- Once a program has been captioned or reformatted, all subsequent distributions of that program must be done with the captions in tact;
- The level of captioning undertaken as of the effective date of Section 713 should be set as a floor under the new rules;
- Exemptions from the captioning requirements should be narrowly limited to situations where it would either "make no sense" to caption the program, or where the imposition of a captioning requirement would effectively preclude the production or distribution of the program -- and, in that regard, the Commission should address concerns regarding particular types of programming through its implementation schedules and not through its exemption authority;
- Relatively rapid schedules should apply to the captioning of new library programs which are intended for wide audience distribution (while longer schedules may be set for other programs); and
- The obligation to caption certain types of programming may be more properly placed on entities other than broadcasters and Multichannel Video Programming Distributors where economic circumstances warrant.

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We strongly urge the Commission to adopt these basic principles, and to take into account the other factors noted above in these Reply Comments.

Respectfully submitted,


Myron P. Curzan
Chief Executive Officer
National Captioning Institute

March 31, 1997

CERTIFICATE OF SERVICE

I, Mary E. Presswood, Secretary of the National Captioning Institute, certify that, on this 31st day of March, 1997, I served one copy of the foregoing Reply Comments of the National Captioning Institute, by hand, on each of the following persons:

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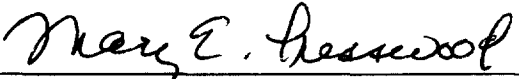
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